

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT FPP-10-01
COTTONWOOD ESTATES
MAY 25, 2010

A report to the Flathead County Planning Board and Board of Commissioners regarding a request for preliminary plat approval of Cottonwood Estates, a major subdivision that would create 91 single family residential lots. The subdivision is generally located in Evergreen on Helena Flats Road east of Kalispell, Montana.

The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 First Avenue West, Kalispell on June 9, 2010 to review the proposal and make a recommendation to the Flathead County Commission. Final action on this proposal by the governing body must be taken prior to the review deadline of July 8, 2010. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed amendment is not within the planning boundaries of any local land use advisory committee or local land use council.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on June 9, 2010 and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

C. Commission

The Flathead County Commissioners will hold a meeting on the proposed subdivision on a date to be determined. This space is reserved for a summary of the Commission's decision.

II. GENERAL INFORMATION

A. Project Personnel

i. Applicant/Owner

Cottonwood Estates LLC
Attn: Wally Wilkinson
250 2nd Street East
Whitefish, MT 59937

ii. Technical Assistance

Sands Surveying

2 Village Loop
Kalispell, MT 59901

Carver Engineering
1995 3rd Ave East
Kalispell, MT 59901

B. Project Description

The project would create 91 single family residential lots in 4 phases.

C. Legal Description of Subject Property

The property can legally be described as Tract 3A in Section 34, Township 29 North, Range 21 West, P.M.M. Flathead County, Montana.

D. Detailed Location

The property is located in Evergreen on the east side of Helena Flats Road just north of the intersection of Helena Flats and Evergreen Drive.

Figure 1- Detailed location.



E. Subdivision Layout Detail

i. Total Subdivision Acreage:	36.63 acres
ii. Acreage in Lots:	22.95 acres
iii. Acreage in Roads:	7.38 acres
iv. Total Park/Common Area/Open Space Acreage	7.81 acres
1. Park deeded to Flathead County	0.0 acres
2. "Homeowner's Association Park"	7.81 acres
3. "Open Space"	0.0 acres
4. "Common Area"	0.0 acres
v. Minimum Lot Size:	0.23 acre(s)
vi. Maximum Lot Size:	0.67 acre(s)
vii. Overall Gross Lot Density:	0.40 units per acre(s)
viii. Easements	

The materials submitted by the applicant did not indicate the property is subject to any easements.

F. Administrative Characteristics

i. Current Land Use

The subject property is vacant and occasionally is used for agricultural purposes.

ii. Current Zoning

The subject property is zoned R-3 One Family Residential, a district to provide adequate lot size for urban residential development.

iii. Proposed Land Use

The proposed land use is single family residential.

G. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision

The surrounding area is comprised of single family residential uses, farmland and vacant land. To the north of the subject property the land use pattern could be described as large lot residential and agricultural. To the east of the subject property the land use pattern could be described as large lot residential. To the south of the subject property the land use pattern could be described as agricultural and suburban urban residential. To the west of the subject property the land use pattern could be described as suburban/urban residential.

ii. Average Parcel Acreage

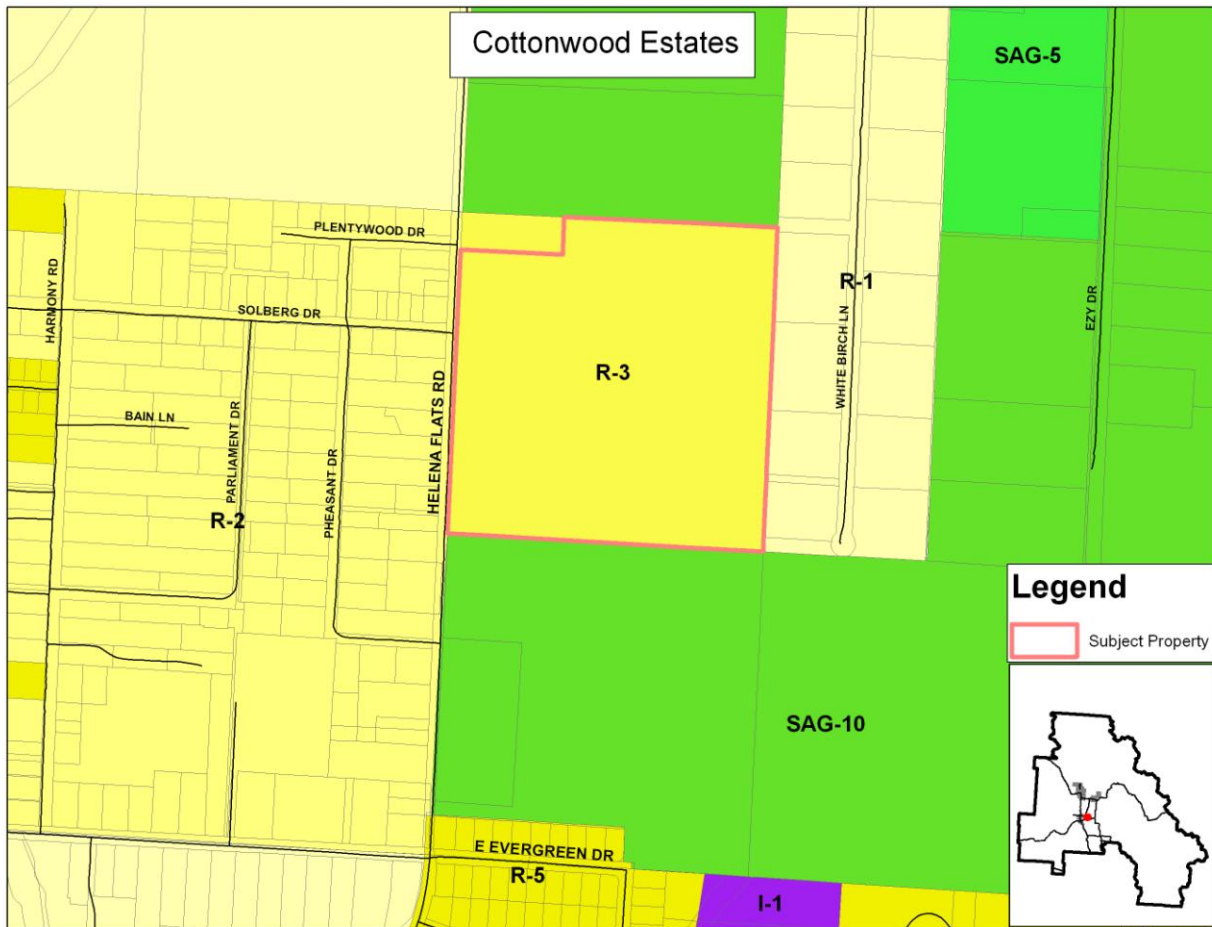
In the near vicinity of the subject property, parcel sizes range from 50 acres plus to as small as 0.1 acres.

iii. Zoning

The zoning adjacent to the subject property is SAG-10 Suburban Agriculture to the north and south, R-1 Suburban Residential to the east, and R-2 One Family

Limited Residential to the west. For the zoning in the immediate area, see figure 2.

Figure 2: Zoning designation in on the subject property and surrounding area.



iv. Previously Considered Subdivisions in Area

In 2003, the Flathead County Commissioners approved a 54 lot Planned Unit Development Subdivision just west of the intersection of Helena Flats Road and Reserve Drive called Kelsey Major Subdivision (now called Trumbull Creek Crossing). Kelsey Major Subdivision and the proposed Cottonwood Estates are similar because both required approval for sewage capacity from the City of Kalispell and therefore had to be built to city standards for roads, sidewalks, boulevards, bike path on the periphery of the subdivision on Reserve Drive, landscaping, lighting and any additional requirements. Kelsey Major Subdivision included street lighting. Lighting through-out the subdivision may be out of character with the surrounding areas of the subject property.

H. Utilities and Services

i. Water

Evergreen Water District.

- ii. Wastewater**
Evergreen Sewer District.
- iii. Electricity**
Flathead Electric Cooperative
- iv. Natural Gas**
Northwestern Energy
- v. Solid Waste**
Evergreen Contract Haul
- vi. Telephone Service**
CenturyLink
- vii. School District(s)**
Evergreen
- viii. Fire District(s)**
Evergreen
- ix. Police**
Flathead County Sheriff

III. COMMENTS RECEIVED

A. Agency Comments

The following is a summary of agency comments received as of May 26, 2010, the date of the completion of this staff report. Any agency comments received after May 26, 2010 at 5:00 pm will be summarized verbally into the record at the public hearing held by the Flathead County Planning Board.

- Marc Pitman DNRC
 - The subject property is located within the “Place of Use” for a municipal water right. The subject property does have a domestic well and would need to contact the DNRC if they wished to change that use.
 - The proposal is located in the 500 year floodplain.
- Darlene Schottle, Superintendent for Kalispell Public Schools
 - The Kalispell Public School District is able to accommodate the students
- Peggy Weyant, Bonneville Power Administration
 - BPA does not have any objections
- David Prunty and Guy Foy, Flathead County Road and Bridge
 - The preliminary plat is acceptable. The proposed variance from the requirement for direct access to an internal subdivision road would need to be approved by the Commissioners.
- Roberta Struck, Flathead County Water and Sewer District #1, Evergreen
 - When Cottonwood Estates was first proposed, the district was not aware of phasing. The district wants the water main extension to not be phased, but completely installed to create a loop.

- Wastewater is required to be approved by the City of Kalispell. The district understands it was approved in the past, but the district would appreciate the agreement to be re-affirmed.
- James Freyholtz, MDT
 - MDT would like the Kalispell Area Transportation Plan to be considered with this proposal.
- James Chilton, Flathead County Solid Waste
 - Current capacity is between 30 and 60 years depending upon the county's growth rate. Private haul should be used. The applicant is approaching the issue of solid waste in an appropriate manner.
- Linda DeVoe, East Evergreen School
 - The school district does not provide bus service and Helena Flats Road is narrow with no sidewalks, no bike paths, and few cross walks. The school district is concerned for the safety of crossing the road. The district recommends a crosswalk at Solberg Drive and a bike path or sidewalk on Helena Flats Road.
- Sean Conrad, City of Kalispell Planning Department
 - The City of Kalispell's Site Review Committee reviewed the proposal and recommend the following
 - A 60-foot right-of-way to be extended from the Oak Trail cul-de-sac south to the southern edge of the subdivision boundary
 - A 30-foot right-of-way to be extended from the recommended 60-foot right-of-way noted above east to the eastern boundary of the subdivision
 - A 20-foot right-of-way along the western subdivision boundary to increase the right-of-way along Helena Flats Road from 40 feet to 60 feet
 - The purpose of the first two right-of-ways is to provide for future street connectivity. The 20 foot right-of-way on Helena Flats is to provide for future improvements to Helena Flats Road.

B. Public Comments

As of May 26, 2010, the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. Any public comments received after May 26, 2010 at 5:00 pm will be summarized verbally into the record at the public hearing held by the Flathead County Planning Board.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed. Definitions of primary review criteria can be found in Section VIII of this report and in Chapter 2 of the Flathead County Development Code.

i. Impact on Agriculture

The site has historically been used for limited agricultural activities including grazing and production of hay. The soil on the subject property is somewhat limited for agricultural production. Properties adjacent to the north and south are in agricultural production.

ii. Impact on Agricultural Water User Facilities

There are no agricultural water user facilities on the subject property.

Finding #1- There will be no significant impact to agriculture or agricultural water user facilities because the property has had limited agricultural production and there are no water user facilities.

iii. Impact on Local Services

1. Water and Wastewater

The applicant is proposing to utilize public water and wastewater systems through the Evergreen Water and Sewer District. The subject property is located outside the boundaries of the Evergreen sewer district; therefore sewage capacity would be granted by the City of Kalispell through Resolution No. 5104. A condition of the City's approval is the waiver of the right to protest annexation, and that all public facilities are to city standards including sidewalks, lighting, roadways and other amenities (Resolution No. 5104).

The applicant will be responsible for installing all wastewater facilities including offsite improvements. Offsite improvements would include a 4" force main along the east side of Helena Flats Road for approximately 2,400 feet where it will connect to a 6" force main at the District's lift station #8. A metering station will be installed after the last service line connection.

Water service will be provided by Evergreen Water and Sewer District. The district has capacity to serve the development. The applicant will be responsible for installing all improvements. All facilities will be installed within the 60 foot subdivision road and utility easements. Comments from Evergreen Water and Sewer District request the water main be fully constructed during the first phase for the development. The district does not want a main that dead ends. The design of the first phase will need to be reviewed and approved by DEQ prior to final plat.

2. Schools

Using a county wide average of 0.42 school aged children, the subdivision could generate 38 school aged children per year. The school has capacity to serve the subdivision. Evergreen Elementary School is ¼ of a mile from the subject property, therefore bus service is not offered to the proposed subdivision. Students attending the elementary school will either walk, bike or be given a ride by automobile. This could create a safety hazard for students crossing Helena Flats Road. See Item 5, Transportation Network, for discussion on pedestrian facilities.

3. Mail Delivery

The applicant is proposing to install a ganged mailbox facility on the west side of Park B during phase 1. The site of the mailbox facility has been reviewed and approved by the United States Postal Service.

4. Recreation

According to Section 4.7.26 FCSR, for a development with lots less than 0.5 acres, 11% of the area shall be dedicated for parkland. The total area in lots less than 0.5 acres is 22.95 acres. The minimum area to be dedicated for parkland is 2.52 areas. The applicant is proposing 7.81 acres of parkland and open space. In accordance with Section 4.7.26(C)(ii.), the applicant is proposing to dedicate the 7.81 acres of parkland to be maintained by a homeowners association.

5. Transportation Network

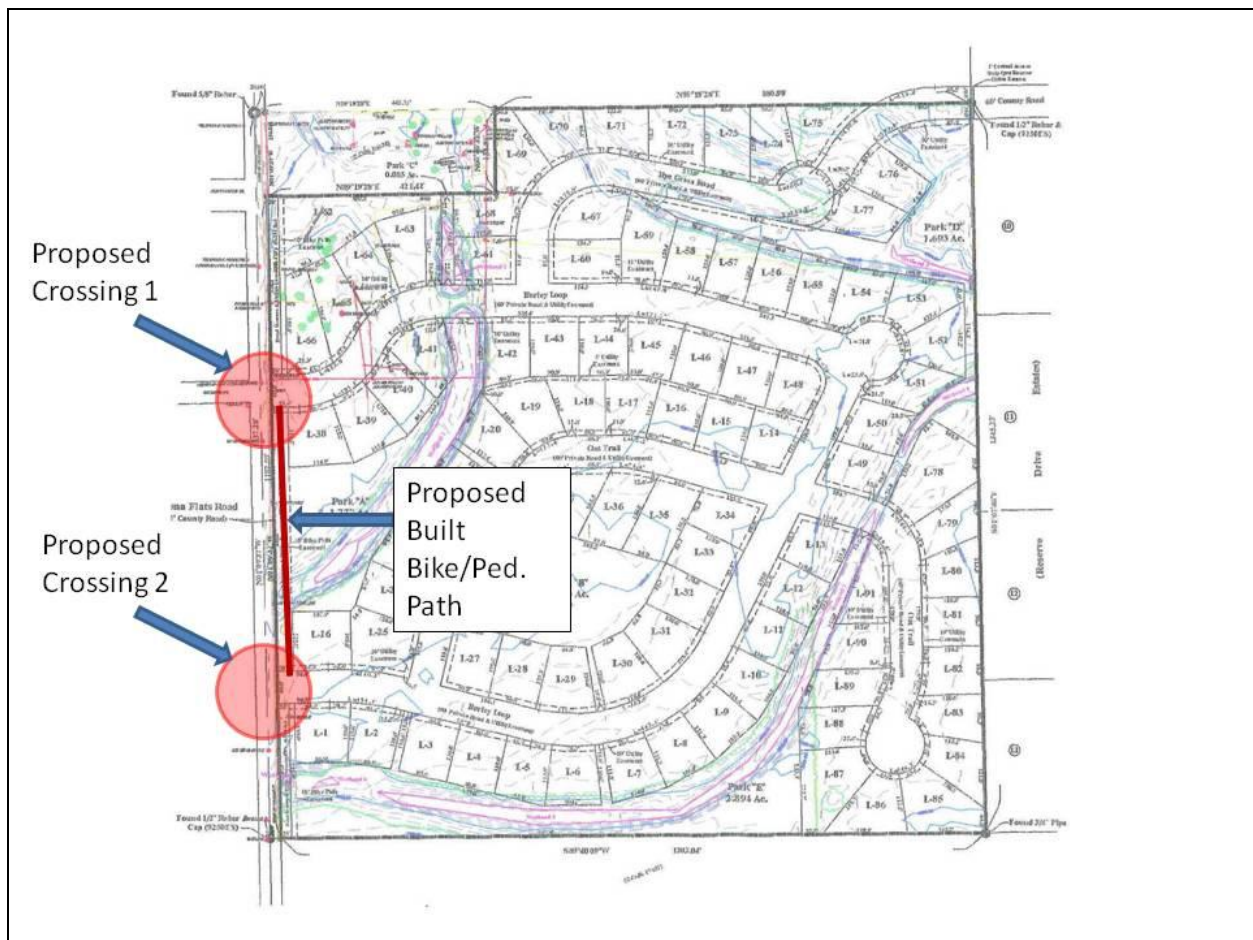
According to the applicant's Traffic Impact Study (TIS), Helena Flats Road is geometrically sound and capable of bearing increased traffic loads. The separation between the proposed accesses on Helena Flats Road is adequate. Internal road systems are interconnected and wide enough to accommodate pedestrian/bicycle facilities. The subdivision is calculated to add 923 trips per day to the existing transportation network. This addition is not expected to affect the levels of service at any of the intersections within the vicinity of the proposal.

Helena Flats Road is designated as a collector within the Kalispell urbanized area. The speed limit on Helena Flats road is 35 mph and increases to 45 mph at the northern end of the subject property. According to the TIS submitted in this application. The Average Daily Traffic (ADT) count on Helena Flats Road between Reserve and Highway 35 in 2007 was 3,175 trips. The TIS forecasted the ADT to increase to 3,909 in 2010, 4,526 by 2015 and 5,143 by 2020. Helena Flats Road does not have sidewalks, curbs, or gutters. Elementary aged students would have to either cross Helena Flats Road at Solberg Drive, or walk along the ditch of Helena Flats Road to Pheasant Drive, both points lack crossing facilities. Without the proper facilities, either option is a risk to the safety of the students.

Comments from Linda DeVoe, Principal of Evergreen Elementary School, expressed concern for the safety of the students. Mrs. DeVoe recommended a

crosswalk be built at the intersection of Solberg Drive and Helena Flats Road, and a sidewalk/bike path be built on Helena Flats Road. These facilities would reduce the risks to students and other people wishing to use pedestrian facilities. The preferred mitigation by staff is to require a cross walk be constructed at the intersection of Solberg and Helena Flats and at the southern intersection with Barely Loop and Helena Flats Road including the installation of cross walk notification signs on Helena Flats Road and the installation of street lights to illuminate the intersections and cross walks (in the winter it will be dark when students are going to school). This would mitigate the risk for children crossing the roadway. And to provide access to the cross walks and then on to the entire subdivision, it is recommended a sidewalk/bike path be built in the separate 10 foot pedestrian easement on the east side of Helena Flats Road on the subject property between the legs of Barely Loop. This will mitigate the risk of walking along Helena Flats Road (Figure 3).

Figure 3: Location of the proposed cross walks and built path.



Comments from the City of Kalispell requested an additional 20 feet right-of-way on Helena Flats Road. To clarify, staff contacted both the City of Kalispell and the applicant's technical representative. The 20 foot easement shown of the preliminary plat addresses the issue.

6. Fire/Emergency Medical Services

Fire and Emergency Services will be the responsibility of the Evergreen Fire District. The Evergreen Fire District recently constructed a new station located approximately 1 mile to the west on US Highway 2. Response times for fire and medical services will likely be similar to other areas within the Evergreen Fire District.

The City of Kalispell will require the placement of fire hydrants or other services within the proposed subdivision. Furthermore, the applicant will be required to meet all reasonable requests of the Evergreen Fire District.

7. Police Services

The Flathead County Sheriff's Department will be responsible for providing police protection for the proposed subdivision. Considering the location of the development, response times will likely be similar to other areas of Evergreen.

8. Solid Waste Disposal

The subdivision will be conditioned to require contract haul. The service provider for this area is Evergreen Disposal. Waste will be hauled to the Flathead County Landfill. It is estimated the landfill has 30 to 60 years of capacity depending on future growth rates in Flathead County.

9. Other Utilities

Electric; telephone, cable TV, and natural gas will service the proposed subdivision. All utilities will be placed underground and will run within the 60 foot road and utility easements that will be dedicated to the Home Owners Association.

Finding #2- Impacts to water and wastewater systems would be acceptable because the City of Kalispell is providing sewer service and will require all facilities be built to city standards, and water will be provided through Evergreen Water and Sewer District and both water and sewage facilities will be reviewed by DEQ.

Finding #3- Impacts to the transportation network would be acceptable because the impacts generated from traffic will not require offsite road improvements and pedestrian facilities can provide safe access across Helena Flats Road.

Finding #4- Impacts on local services would be acceptable because the proposed subdivision will utilize contract haul services, will utilize a centralized location for the delivery of mail, the schools can accommodate the additional students, the applicant is dedicating park land, the subject property is in similar proximity to emergency services as other areas of the county, and the property is currently served by public utilities.

iv. Impact on the Natural Environment

1. Water Quality

There are no surface waters on or in the immediate vicinity of the subject property. There are wetlands on the subject property that have been identified in a wetland delineation submitted as an appendix to the application's environmental assessment. The wetland delineation has been reviewed by the Army Corp of Engineers (Corp) and the wetlands are non-jurisdictional, meaning they are not connected to state waters. Stormwater run-off will be directed to the wetlands following a pretreatment process.

Groundwater on the subject property can range from 5 to 6 feet to over 12 feet depending upon the location and the time of the year. The subdivision will be connected to public water and sewer to mitigate potential impacts to groundwater. The sewer lines will be pressurized to prevent leakage.

2. Air Quality

All roads accessing the subject property are paved and all internal subdivision roads will be paved. The applicant has submitted a dust control plan pursuant to Section 4.7.15 FCSR. The dust plan discusses the methods that could be used to reduce fugitive dust during construction. If these measures are implemented, the potential for fugitive dust affecting air quality will be reduced.

3. Impact of Noise

Noise levels will likely increase during construction of infrastructure. However, once the infrastructure is completed, noise levels will be typical of a single family neighborhood and not out of character with the surrounding area.

4. Impact to Flora

The property has historically been in agricultural production including tilling and grazing. The wetland areas have not been tilled and contain the most native vegetation. These low areas have been set aside as common area. The areas of the subject property with the greatest concentrations of natural vegetation will not be affected.

5. Impact to Floodplain

According to FEMA FIRM panels 1810G and 1830G, the subject property is in Zone X, areas of 0.2% annual chance floodplain (also called the 500 hundred year floodplain). Subdivisions in areas of 0.2% annual chance floodplain do not require special provisions to protect the floodplain.

6. Impact to Riparian/Wetland Areas

As discussed in item iv.(1) of this report, the applicant has conducted a wetland delineation, submitted the delineation to the Corp, and the Corp has responded with a determination stating wetlands present on the subject

property are non-jurisdictional. The 6 wetlands covering 1.17 acres identified in the delineation will primarily be set aside in park land. Approximately 806 square feet (0.018 acres) of wetlands will be filled in for roads. Stormwater will undergo pretreatment and then be diverted to the wetlands to take advantage of their natural ability to hold and clean water. No other alterations to the wetlands are planned.

7. Impact to Historical Features

There are structures located on the subject property that will eventually be removed. The structures do not appear to have historical references. No other historic features are known to be present on the property.

Finding #5- Impacts to the natural environment would be acceptable because sewer and stormwater systems will mitigate impacts to groundwater, dust control will mitigate impacts to air quality, noise levels would not be out of character with the area, the subject property is located in the 0.2% annual chance floodplain, portions of the property with native vegetation will be in open space, disturbance to wetlands and riparian areas is limited to 806 square feet, and there are no known historic features on the subject property.

v. Impact on Wildlife

The subject property is mapped as overall distribution for black bear and whitetail deer. According to the Montana Natural Heritage website, the Township and Range has the potential for gray wolf and bald eagles, however given the proximity to Evergreen it is unlikely the gray wolf is dependent on the subject property. Bald eagles may visit the property but according to the Montana natural Heritage website, they typically prefer to nest near open water which the immediate area is lacking.

vi. Impact on Wildlife Habitat

The best wildlife habitat on the subject property is found in the low lying wetland areas. The upland areas have historically been tilled or grazed and do not provide quality habitat. The low lying areas would be set aside as open space protecting the majority of the habitat. Larger animals such as bear and deer will likely shy away from the development because of the density, but smaller mammals and birds will likely utilize the remaining habitat.

Finding #6- Impacts to wildlife and wildlife habitat would be acceptable because open areas can mitigate impacts to habitat by leaving the best habitat on the subject property in a natural state.

vii. Impact on Public Health and Safety

1. Flood Risk

According to FEMA FIRM panels 1810G and 1830G, the subject property is in Zone X, areas of 0.2% annual chance floodplain. There is 0.2% chance that flooding may occur on the subject property on any given year. While there is

a potential from flooding, a 0.2% change of flooding is not considered a significant deterrent to single family residential development.

2. Water and Wastewater Treatment

Wastewater treatment will be provided by Evergreen Water and Sewer through an inter-local agreement with the City of Kalispell. The sewer system will help mitigate impacts to the shallow groundwater. The wastewater system will be reviewed by DEQ and the system will be built by the developer. All offsite improvements for the wastewater facilities will be built by the developer. Any work done offsite will require an encroachment permit from Flathead County Road and Bridge.

3. Stormwater

A plan to address stormwater has been submitted with this application. Stormwater will be directed into catch basins and pretreatment facilities before being discharged into wetland areas. The pretreatment facilities will be comprised of detention basin and outlet piping will be fitted with “Snout” oil and debris stops. The roadways will be built with curbing and guttering to direct stormwater to the catch basins and pretreatment facilities. All facilities will be built to the standards of Flathead County and the City of Kalispell.

4. Traffic Safety

Roads within the subdivision will be built to Flathead County and City of Kalispell standards including curb and gutter, and sidewalks. The subdivision will have access points onto Helena Flats Road. Helena Flats Road has been identified as a collector. Speed limits in front of the subject property transition from 35 mph to 45 mph. The road is straight providing adequate sight distance, and the proposed intersections exceed the minimum separation distance. The Traffic Impact Study submitted by the applicant does not indicate any issues with the traffic volumes created by the subdivision at any of the affected intersections both on and off site. The primary concern with safety is pedestrian facilities on Helena Flats Road. A crosswalk with associated signs and intersection lighting is recommended at the intersection of Solberg Lane and Helena Flats Road and at the southern intersection of Barley Loop and Helena Flats Road. A separated bike/pedestrian path is recommended on Helena Flats Road between the two Barley Loops.

5. High Voltage Electric Lines/High Pressure Gas Lines

There are no high voltage electric lines or high pressure gas lines located on the subject property.

6. Fire and Emergency Services

Fire and emergency services will be the responsibility of the Evergreen Fire District. The applicant will be required to build the subdivision to urban standards which would include fire hydrants. The road system, once all phases are complete will be a looped system allowing two points of access to

the development. Response times to the subdivision have been estimated by the Evergreen Fire District to be about 5 minutes.

7. Geologic Hazards

There are no known geological hazards such as steep slopes, rock outcroppings, or other limitations present on the subject property. The property is relatively flat with some depressed areas containing wetlands. The low lying areas will not be developed.

8. Avalanche Hazards

There is no terrain that presents a threat from avalanches present on the subject property.

9. Airport Influence Areas

The subject property is not within an airport influence area.

10. Soils

According to the NRCS, soils may pose some challenges to construction due to the presence of shallow groundwater and potential for flooding. Wetlands are present on the subject property and it is located in what is typically called the 500 year floodplain. The portions of the subject property likely to have the greatest limitations due to shallow groundwater and potential for flooding have been designated as open areas and development in these areas will be limited to a few road crossings. Any soil limitations that arise would be addressed at the time of construction.

Finding #7- The impacts to public health and safety would be acceptable because pedestrian facilities can be built to provide safe crossing on Helena Flats Road and service levels at affected intersections will not deteriorate.

Finding #8- The impacts to public health and safety would be acceptable because the subject property is not located in the 100 year floodplain, storm water and wastewater plans are appropriate and will be reviewed by DEQ, areas with soil limitations can be avoided, emergency services are acceptable and there are no natural hazards such as high fire danger or geologic hazards.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

The preliminary plat would conform to all provisions of 76-3-401 through 76-3-406 M.C.A. if it contained all elements required by state survey requirements, which will be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #9- The preliminary plat would conform to all provisions of 76-3-401 through 76-3-406 M.C.A. if it contained all elements required by state survey requirements, which will be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations

The applicant has submitted a request for a variance to Section 4.7.18 (a) FCSR that states: Residential driveways shall not have direct access to arterial roads, collector roads, collector roads or highways unless approved by the Road and Bridge Department or MDOT. Helena Flats Road is considered a collector road; Lot 62 would have direct access onto Helena Flats Road. Below is a review of the variance criteria.

The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties

Helena Flats Road is a collector road carrying approximately 3,175 trips per day. The location of lot 62 is just south of the where the speed limit changes from 45 mph to 35 mph. The road is straight and has adequate sight distance. Flathead County Road and Bridge Department has reviewed the variance request and did not have issue.

Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does to include personal or financial hardship, or any hardship that is self imposed

The applicant designed the layout of the subdivision to avoid disturbance of the wetland areas and to ensure the alignment of Barley Loop and Solberg Drive. The configuration of the two roads and the surrounding wetland create a design challenge that makes it difficult for lot 62 to connect with an internal subdivision road.

The variance will not cause a substantial increase in public costs, now or in the future.

The public will not be responsible for the maintenance of a private driveway.

The variance will not place the subdivision in non-conformance with any adopted growth policy, neighborhood plan or zoning.

The Flathead County Growth Policy or the Kalispell City County Master Plan does not speak to individual driveways. The driveway would not be out of conformance with any provision of the Zoning Regulations.

The variance is consistent with the surrounding community character of the area.

Direct access onto Helena Flats Road is common in the immediate vicinity of the subject property.

Finding #10- The variance to Section 4.7.18 FCSR meets the criteria established in Section 4.1.6 FCSR because the proposed driveway access on Helena Flats Road does not have safety issues, is not a financial hardship, driveways do not increase public costs, is consistent with applicable plans and regulations, and driveways are common.

D. Compliance with the Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

September 14, 2009

ii. Application Submitted by Applicant Date

March 11, 2010

iii. Application Deadline Date

March 16, 2010

iv. Completeness Date

March 23, 2010

v. Sufficiency Date

April 13, 2010

vi. Agency Referral Requests Mailing Date

April 26, 2010

vii. Adjacent Property Notification Mailing Date

May 11, 2010

viii. Legal Notice Publication Date

May 23, 2010

ix. On-site Posting of Public Hearing Date

May 24, 2010

Finding #11- The proposed subdivision is in compliance with the Flathead County Review Procedure because all timelines relative to state statutes and local subdivision regulations have been met.

E. Provision of Easements for the Location and Installation of Planned Utilities

All utilities will be placed underground and will run in the 60 foot road and utility easement as shown on the preliminary plat. The City of Kalispell has asked for a 20 foot easement on the east side of Helena Flats Road to accommodate future roadway expansion according to the Kalispell Area Transportation Plan. This has been reflected in the preliminary plat. The applicant has shown a 10 foot bicycle/pedestrian easement on Helena Flats Road.

Finding #12- The provision of easements and location and installation of planned utilities are acceptable because the 60 foot road and utility easement will provide services to all lots, and the applicant has dedicated a 20 foot easement for future expansion of Helena Flats Road and a 10 foot bicycle/pedestrian easement on Helena Flats Road.

F. Provision of Legal and Physical Access to Each Parcel

All lots will have legal and physical access to an internal subdivision road except for lot 62, which will have legal and physical to Helena Flats Road, and Lot 76. Lot 76 does have legal access through the continuation of the easement for Rye Grass Road, but it does not actually abut the road. The road terminates before in a cul-de-sac before the lot. Section 4.7.17 states: *Each lot shall have legal and physical access provided and must abut and have access to a public or private road. Alleys and secondary roads shall not be used to provide the primary means for access to a lot.* As a result, Rye grass road must physically be extended to reach lot 76, or lot 76 must be abandoned from the

proposal. The applicant is looking into possible solutions to this issue that will likely be discussed at the Planning Board's public hearing.

Finding #13- The provision of legal and physical access would be extended to each lot except lot 76 because lot 76 does not have physical access to an internal subdivision road.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A. states that "A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter." Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The subject property is within the plan area of the Kalispell City County Master Plan 2010. The Master Plan is the foundation for the zoning in place in the Evergreen Zoning District. The proposal is in compliance with the applicable zoning regulations.

ii. Flathead County Growth Policy

The Flathead County Growth Policy adopted on March 19, 2007 is a general policy document meeting the requirements of 76-1-601 M.C.A. Land use regulations such as subdivision regulations and zoning regulations adopted by Flathead County are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the applicable regulations and is therefore in general compliance with the Flathead County Growth Policy.

H. Compliance with Local Zoning

The subject property is zoned R-3 One Family Residential. The proposed single family uses would conform to Section 3.11.020 FCZR. The proposed lot sizes would conform to the minimum lot area in Section 3.11.040(1) FCZR. The compliance with minimum width in Section 3.11.040(2) FCZR is more difficult to identify. Minimum lot widths in an R-3 designation must be 70 feet, and 60 feet in cul-de-sacs. Lot width is defined in Section 7.12.150 (FCZR) as *A dimension of the lot line at the street. Where in an irregularly shaped lot the dimension at the building line or in a corner lot the narrowest dimension of the lot at a street or building line.* In other words, the lot must be 70 feet wide, or 60 feet on cul-de-sacs, either at the street or where the building sits. Because the exact site of the building is not a part of subdivision review, the question is if each lot is wide enough either at the street, or somewhere within the lot that would allow for a building site. If not, that lot would not conform to the zoning. A review of the subdivision shows of the 91 lots, 14 lots would not meet minimum lot width at the street. Of those 14 lots, all lots would be able to show minimum lot width at a building site somewhere on the lot.

Finding #14- The proposed subdivision would conform to the applicable zoning regulations because the proposed single family residential use is a permitted use in the regulations, and each lot could meet all bulk and dimensional requirements.

V. SUMMARY OF FINDINGS

Finding #1- There will be no significant impact to agriculture or agricultural water user facilities because the property has had limited agricultural production and there are no water user facilities.

Finding #2- Impacts to water and wastewater systems would be acceptable because the City of Kalispell is providing sewer service and will require all facilities be built to city standards, and water will be provided through Evergreen Water and Sewer District and both water and sewage facilities will be reviewed by DEQ.

Finding #3- Impacts to the transportation network would be acceptable because the impacts generated from traffic will not require offsite road improvements and pedestrian facilities can provide safe access across Helena Flats Road.

Finding #4- Impacts on local services would be acceptable because the proposed subdivision will utilize contract haul services, will utilize a centralized location for the delivery of mail, the schools can accommodate the additional students, the applicant is dedicating park land, the subject property is in similar proximity to emergency services as other areas of the county, and the property is currently served by public utilities.

Finding #5- Impacts to the natural environment would be acceptable because sewer and stormwater systems will mitigate impacts to groundwater, dust control will mitigate impacts to air quality, noise levels would not be out of character with the area, the subject property is located in the 0.2% annual chance floodplain, portions of the property with native vegetation will be in open space, disturbance to wetlands and riparian areas is limited to 806 square feet, and there are no known historic features on the subject property.

Finding #6- Impacts to wildlife and wildlife habitat would be acceptable because open areas can mitigate impacts to habitat by leaving the best habitat on the subject property in a natural state.

Finding #7- The impacts to public health and safety would be acceptable because pedestrian facilities can be built to provide safe crossing on Helena Flats Road and service levels at affected intersections will not deteriorate.

Finding #8- The impacts to public health and safety would be acceptable because the subject property is not located in the 100 year floodplain, storm water and wastewater plans are appropriate and will be reviewed by DEQ, areas with soil limitations can be avoided, emergency services are acceptable and there are no natural hazards such as high fire danger or geologic hazards.

Finding #9- The preliminary plat would conform to all provisions of 76-3-401 through 76-3-406 M.C.A. if it contained all elements required by state survey requirements, which will be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #10- The variance to Section 4.7.18 FCSR meets the criteria established in Section 4.1.6 FCSR because the proposed driveway access on Helena Flats Road does not have safety issues, is not a financial hardship, driveways do not increase public costs, is consistent with applicable plans and regulations, and driveways are common.

Finding #11- The proposed subdivision is in compliance with the Flathead County Review Procedure because all timelines relative to state statutes and local subdivision regulations have been met.

Finding #12- The provision of easements and location and installation of planned utilities are acceptable because the 60 foot road and utility easement will provide services to all lots, and the applicant has dedicated a 20 foot easement for future expansion of Helena Flats Road and a 10 foot bicycle/pedestrian easement on Helena Flats Road.

Finding #13- The provision of legal and physical access would be extended to each lot except lot 76 because lot 76 does not have physical access to an internal subdivision road.

Finding #14- The proposed subdivision would conform to the applicable zoning regulations because the proposed single family residential use is a permitted use in the regulations, and each lot could meet all bulk and dimensional requirements.

VI. RECOMMENDATION

Staff recommends the Flathead County Commission adopt staff report FPP-10-01 as findings of fact and approve the preliminary plat of Cottonwood Estates subject to the approval of the variance from Section 4.7.18 FCSR and the following conditions. The variance request will require a individual motion following the adoption of findings of fact, and before the discussion on conditions.

VII. CONDITIONS

A. Standard Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626B. All road names shall appear on the final plat. Street addressing shall be assigned by the Address Coordinator. [Section 4.7.18(g)(iv), 4.7.28(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road Department or the Montana Department of Transportation indicating the approach has been built and received final inspection and final approval. [Section 4.7.18, FCSR]
3. The applicant shall comply with reasonable fire suppression and access requirements of the applicable fire district. A letter from the fire chief stating that the plat meets the requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.28(d), FCSR]
4. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.27, FCSR]

5. All internal subdivision roads shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.18, FCSR]
6. With the application for final plat, the applicant shall provide a Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.17(e), FCSR]
7. New electrical and telephone utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.25, FCSR]
8. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.14, 4.7.22, 4.7.23 FCSR]
9. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.30, FCSR]
10. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.24, FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.28(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.25, FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.15, FCSR]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained and provided to the Flathead

County Planning & Zoning office prior to final plat. [17.30.1115 Administrative Rules of Montana (A.R.M.)]

14. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.4.27 FCSR]
15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.4.22 FCSR]
16. Preliminary plat approval of Phase 1 is valid for three years. The final plat shall be filed prior to the expiration of the three years. All subsequent phases shall be filed within three years of the final plat approval for the previous phase. [Section 4.4.20 and 4.4.10 FCSR]

B. Project-Specific Conditions

16. The applicant shall provide written verification from the City of Kalispell that all facilities have been built to the City's specifications as required by the City of Kalispell's Resolution 5104. [Section 4.7.22 (c), FCSR]
17. The applicant shall build crosswalks, including signage and street lighting to the City of Kalispell standards at the intersection of Solberg Lane and Helena Flats Road and at the intersection of the southern end of Barley Loop and Helena Flats Road. These facilities shall be completed as the road infrastructure for the appropriate phase is completed. [Section 4.7.20 FCSR]
18. A 10 foot bike/pedestrian easement shall be shown on the face of the final plat for the entire length of the subdivision along the east side of Helena Flats Road. [Section 4.7.20 FCSR]
19. A bike/pedestrian path separated from the roadway shall be constructed between the northern and southern intersections of Barley Loop and Helena Flats Road on the east side of Helena Flats Road. [Section 4.7.20 FCSR]
20. The applicant shall either extend Rye Grass Road in accordance with the Flathead County Minimum Standards for Design and Construction to provide physical access to Lot 76 or Lot 76 as shown on the preliminary plat shall not be given final plat approval. [Section 4.7.16 FCSR]

Planner:DH

Filepath: H:\Users\AP\!Files\FCPZ\CURRENT PLANNING\SUBDIVISION AND ZONING REPORTS\FPP\2010\FPP-10-01 Cottonwood Estates

VIII. DEFINITIONS (From Chapter 2 of the Flathead County Development Code)

A. Agriculture

All aspects of farming, including the cultivation and tillage of the soil; dairying; and the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act [12 U.S.C. 1141j(g)]. The raising of livestock, bees, fur-bearing animals, or poultry; and any practices, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal/poultry husbandry, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

B. Agricultural Water User Facilities

Those facilities which provide water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including, but not limited to, ditches, pipes, and head gates.

C. Local Services

Any and all services or facilities that local government entities are authorized to provide.

D. Natural Environment

The physical and biological conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, human, and object of historic or aesthetic significance.

E. Public Health and Safety

A condition of well-being, free from danger, risk or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons.

F. Wildlife

Living animals which are neither human nor domesticated.

G. Wildlife Habitat

A place frequented by wildlife or site where wildlife naturally lives.